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NASA Procedural Requirements

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Request Notification of Change (NASA Only)

Subject: Real Estate Management Program w/Change 1, February 24, 2015**Responsible Office: Facilities Engineering and Real Property Division**[| TOC](#) | [ChangeHistory](#) | [Preface](#) | [Chapter1](#) | [Chapter2](#) | [Chapter3](#) | [Chapter4](#) | [Chapter5](#) | [Chapter6](#) | [Chapter7](#) | [Chapter8](#) | [AppendixA](#) | [AppendixB](#) | [AppendixC](#) | [AppendixD](#) | [AppendixE](#) | [AppendixF](#) | [AppendixG](#) | [ALL](#) |

Chapter 4. Acquisition of Real Property

4.1 Overview

4.1.1 This section describes the policies and procedures by which NASA Centers may acquire real property assets to support their missions. It includes references to laws, policies, and principles related to the NASA property acquisition process.

4.1.2 The requirements in this chapter apply to real property assets acquired by:

- a. Purchase, condemnation, gift, or transfer from another Federal agency.
- b. Lease.
- c. Easements, rights-of-way, licenses, permits, and use agreements.
- d. Land withdrawals from Bureau of Land Management.

4.1.3 Procedures for recording transfer and acceptance of real property assets can be found in Section 2.3 of this NPR and the NASA Real Estate Desktop Guide.

4.1.4 This chapter does not apply to the construction of assets on real property already owned or under the control of NASA. Policies and procedures for construction of new assets can be found in NPR 8820.2. Procedures for recording construction of assets can be found in Section 2.2 of this NPR.

4.2 Guiding Principles for Acquisition of Real Property

4.2.1 All acquisitions of real property are subject to the guiding principles of NASA real property management in Section 1.2.

4.2.2 14 CFR, Part 1204.501 delegates the authority to acquire real property to the following NASA officials:

- a. Assistant Administrator, Office of Strategic Infrastructure.
- b. Director, FRED.

4.2.3 14 CFR, Part 1204.501 further provides that the authority to acquire real property may be redelegated.

4.2.4 NASA usually does not accept donation of facilities built on non-Federal land, but FRED will consider requests for a waiver.

4.2.5 The Director, FRED, is responsible for coordinating with and obtaining the concurrence of Mission Directorates and other NASA Headquarters senior management officials to acquire real property, as appropriate.

4.2.6 The Director, FRED, shall coordinate and approve real property matters involving international locations with OGC and, through them, the NASA Office of International and Interagency Relations. NASA Headquarters will

coordinate with the Departments of Justice and State as required.

4.3 Environmental, Historic, and Sustainability Considerations

4.3.1 Real property acquisitions shall be coordinated with the Center's Environmental Management Office as early as possible to ensure that environmental requirements and liabilities are addressed in accordance with NPD 8500.1, NASA Environmental Management.

4.3.2 Environmental documentation to support the acquisition shall be prepared and maintained by the Center and will comply with both the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA).

4.3.3 NEPA documentation requirements assess potential environmental impacts associated with the real property acquisition, in accordance with NPR 8580.1. An Environmental Assessment or Environmental Impact Statement may be required.

4.3.4 NEPA documentation shall include an Environmental Baseline Survey (EBS) that reviews the operational history of the real property to identify potential environmental issues, including, but not limited to, hazardous substance activities, equipment containing polychlorinated biphenyls (PCBs), materials containing asbestos, underground storage tank systems, wetlands, floodplains, or cultural resources.

4.3.5 Historic documentation will comply with both Section 106 and 110(a) of the NHPA, 16 U.S.C. §470 et seq. This review is necessary if the real property acquisition has the potential to affect a listed or eligible structure/cultural resource on the National Register of Historic Places. National Historic Landmarks and Native American and Native Hawaiian sites also should be included.

4.3.6 Real property acquisitions including leases will comply with the Federal guiding principles for sustainability established by Executive Order 13423, including the Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings set forth in the Federal Leadership in High Performance and Sustainable Buildings Memorandum of Understanding (2006) ("Federal Guiding Principles").

4.3.7 If the site or structure to be acquired is found to be or is known to be contaminated and requires remediation, the acquisition documents shall identify the responsibility of parties for remediation.

4.4 Safety and Health Considerations

4.4.1 The FPM shall coordinate real property acquisitions with the Center's Safety and Mission Assurance (SMA) Office as early as possible to ensure that all safety and health hazards, issues, and concerns have been addressed.

4.4.2 Safety and health documentation shall be prepared and maintained at the Center. This includes a Safety Baseline Survey (SBS) to identify potential safety and health hazards and concerns. The SBS may include previous safety, health, and/or facility deficiencies from inspections. In many cases, required abatement actions will need to be completed prior to the actual transfer of the property.

4.4.3 NPR 8715.3 and NASA-STD-8719.7 provide additional guidance.

4.5 Uniform Relocation Assistance Considerations

4.5.1 The Uniform Relocation Assistance program provides uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects.

4.5.2 The Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs Act (42 U.S.C. §4601 et seq.) is implemented through regulations in 49 CFR, Part 24, and applies to NASA through 14 CFR, Part 1208.

4.5.3 This regulation pertains to any NASA real property acquisition that displaces a property owner. FRED shall coordinate with the appropriate Federal authorities to determine whether or not Federal funds may be used to assist with the displaced property owner's relocation expenses.

4.6 Title Approval Considerations

4.6.1 Before public money is expended to acquire land or any interest in land for the Federal Government, the Attorney General of the United States is required to approve the sufficiency of title to the land, as stated in 40 U.S.C. §3111. This requirement applies to the acquisition of real property for any purpose, including, but not limited to, easements and leases of a term greater than 30 years, real property purchased by NASA, and real property donated to NASA, in accordance with the Space Act.

4.6.2 The Attorney General's title approval responsibilities have been delegated to the Assistant Attorney General, Environment and Natural Resources Division.

4.6.2.1 Day-to-day administration is further delegated to the Title Unit in the Lands Acquisition Section of the Environment and Natural Resources Division. The Title Unit may be contacted to answer any questions or provide any assistance needed regarding title approval issues.

4.6.2.2 Department of Justice (DOJ) authority regarding approval responsibilities is also delegated to specific Federal agencies, including the U.S. Army Corps of Engineers. Those agencies with delegated authority may be used to assist in the acquisition of real estate.

4.6.3 Centers shall request FRED assistance in gaining clear title with the request for approval to acquire real property. The process of obtaining satisfactory evidence of good title should be started early in the acquisition process.

4.6.4 NASA also is responsible for ensuring that the real property to be acquired is inspected. The RPAO shall complete a Certificate of Inspection and Possession and submit it to FRED. FRED will coordinate the submission of the certificate to DOJ through the OGC.

4.7 Obtaining Approval to Acquire Real Property

4.7.1 The Center Director (or a Center senior management official with delegated authority from the Center Director) shall forward requests for approval to acquire real property to the Director, FRED.

4.7.1.1 Center Directors shall sign requests to acquire real property by purchase, gift, condemnation, or transfer from another Federal agency.

4.7.2 The Center shall ensure the Director, FRED, is fully informed of significant actions or problems related to any real property acquisition actions proposed or in process.

4.7.3 If the real property proposed to be acquired is privately held, the request shall include justification of the proposed acquisition, including supporting documentation and a finding from NASA legal counsel that the proposed action is legally sufficient.

4.7.3.1 Centers requesting approval for real property acquisitions shall prepare a business case in accordance with the NASA Business Case Guide for Real Property and Facilities Project Investments.

4.7.3.2 The business case shall include a Life-Cycle Cost Analysis for the acquisition using Economic Analysis Package (ECONPACK) software from the U.S. Army Corps of Engineers.

4.7.4 Supplemental Information Regarding the Availability of Other Sites

4.7.4.1 Centers shall supplement requests for approval to acquire real property with information about the availability of other potential sites, both Government- and non-Government-owned, including:

- a. Criteria used in site selection.
- b. Comparison of advantages of requested site over other available sites.
- c. Efforts to comply with 51 U.S.C. §30309, which requires investigating use of abandoned and underutilized Federal buildings, grounds, and facilities in depressed communities.
- d. Steps taken to address Executive Orders 12072, Federal Space Management and 13006, Locating Federal Facilities in Historic Properties.

4.7.4.2 Rural Considerations

a. Section 601 of the Rural Development Act (RDA) of 1972, as amended, 7 U.S.C. §2204b-1, requires Federal agencies to maintain departmental policies and procedures that give first priority to the location of new offices and other facilities in rural areas.

b. Rural areas are defined in 41 CFR, Part 102-83.55 as "any area other than"

(a) A city or town that has a population of greater than 50,000 inhabitants; and

(b) The urbanized area contiguous and adjacent to such a city or town."

c. The RDA was established to provide for planning, financing, and developing facilities and services in rural areas that contribute to making these areas desirable places in which to live and make private business investments.

d. If property proposed for acquisition is not in a rural area as defined in the Rural Development Act of 1972, 7 U.S.C. §2204b-1, Centers shall provide written justification, including the following:

- (1) Reasons why the office or other facility needs to be located at chosen site.
- (2) Efforts made to locate in rural area.

(3) Effects on project or program if location is changed to rural area.

4.7.4.3 Centers shall explain any significant variations from standards outlined in Government real property acquisition documents that may exist in connection with the proposed acquisition.

4.7.4.4 Centers shall provide a proposed schedule and steps in the acquisition process.

4.7.4.5 Centers should anticipate any potential adverse consequences resulting from an acquisition and report possible disadvantages along with suggestions for correction.

4.7.4.6 Centers should explain any contingencies that could prevent or delay the acquisition or require reversal of decision to acquire.

4.8 Capitalization Determination Form

4.8.1 As part of NASA's efforts to appropriately account for its assets and expenses, NASA requires that NASA Form 1739, Capitalization Determination Form (formerly Alternative Future Use Questionnaire) be completed prior to acquisition of any facilities and related property. The requirements for Form 1739 are provided in NPR 9250.1 and Chapter 2 of this document.

4.8.2 The purpose of this form is to determine the appropriate accounting treatment for each individual asset acquired during the course of an infrastructure and institutional project. If an individual asset meets these criteria, then it shall be capitalized and a work breakdown structure (WBS) element established for each item.

4.9 Naming Real Property

4.9.1 NASA-Owned Real Property

4.9.1.1 NASA-owned buildings and structures, including those under construction or planned for future construction, should be named for their purpose (e.g., Administration Building, Rocket Research Building, etc.). NASA-owned buildings and structures may be named for persons only in extraordinary circumstances. Center Directors and the Director of JPL (an FFRDC) shall submit all requests to the Director, FRED, before naming buildings or other NASA real property after NASA employees or other persons. Such requests will include the proposed name of the building and all related background information.

4.9.1.2 Centers may consider naming meeting rooms or libraries after persons making significant contributions to NASA. Alternatively, Centers may establish a memorial grove of trees or a memorial area, such as a reception area in which a plaque is dedicated to persons who have provided extraordinary service. These requests also shall be submitted to the Director, FRED, for approval.

4.9.1.3 Roads and streets on NASA-owned property are named using a commonly accepted system of designating a number, letter, or a combination thereof. Appropriate nouns such as geographic locations, places or events of American historical significance, scientific derivations, distinguished Americans, or landmark NASA projects and programs also may be used. Requests to use such names shall be submitted to the Director, FRED, for approval.

4.9.1.4 All requests for naming NASA-owned real property after a person, place, event, project, or program shall be reviewed and approved by all Center stakeholders before they are submitted to the Director, FRED, for approval. This includes the Center Historic Preservation Officer, who will determine whether Section 106 of the NHPA should be consulted.

4.9.2 Public Property and Public Buildings (Other Than Schools)

4.9.2.1 Communities and cities often request concurrence to name public buildings in honor of astronauts, including the crew of Columbia. If requests are received to name a building for a person, living or deceased, Center Directors and the Director of JPL (an FFRDC) shall submit requests to the Director, FRED, that include the proposed name and all related background information, including coordination of the naming with the cognizant Associate Administrator.

4.9.2.2 For requests to name NASA-owned buildings, streets, or other property and requests to name public property and buildings (other than schools) for NASA personnel, the Director, FRED, shall coordinate the proposal with appropriate Headquarters organizations, and inform the Center of final action in each case.

4.9.3 Schools

4.9.3.1 Communities and cities often request concurrence to name public schools in honor of fallen astronauts. The NASA Headquarters Office of Education has the authority and responsibility to process requests to name schools. Points of contact have been established at each NASA Center. All school naming requests will be referred to the appropriate Center point of contact, who will track the request to completion.

4.9.3.2 Center Directors and the Director of JPL (an FFRDC) shall submit requests for naming schools to the Office

of Education with a copy to FRED.

4.10 Office of Management and Budget's Scoring Rules on Leases

4.10.1 Scoring Rules

4.10.1.1 "Scoring" refers to the amount of obligation an agency needs to record and recognize against its budget authority. Sufficient agency appropriations need to be available to cover the amount scored and may not be used for other obligations or purposes.

4.10.1.2 The Budget Enforcement Act (BEA), first enacted in 1990 and revised in 1997, created a mechanism to limit spending by Federal agencies. As a result of the BEA, scorekeeping criteria (also called scoring rules) were developed by the Congressional Budget Office (CBO) and OMB to keep track of budget obligations by Federal agencies. The scorekeeping rules in OMB Circular A-11 require that budget authority for lease-purchases and capital leases be scored upfront. All outlays are required in the first year of the lease in an amount equal to the net present value of the entire stream of annual payments over the life of the lease. This requirement effectively eliminated lease-purchases and capital leases from consideration by Federal agencies as methods of acquiring capital assets. The scoring rules do not require upfront scoring of the rental payments made under an operating lease.

4.10.2 Scoring Criteria

4.10.2.1 OMB rules identify six criteria that need to be met for an in-lease to be considered an operating lease, including the following:

- a. Ownership of the asset needs to remain with the lessor/landlord during the lease term and not be transferred to the Government at, or shortly after, the end of the lease term. This means that NASA in-grants cannot state that the property will transfer to NASA at the end of the term.
- b. The lease does not contain a bargain-price purchase option.
- c. The lease term does not exceed 75 percent of the estimated economic life of the asset.
- d. The asset is a general purpose asset, rather than being for a special purpose of the Government and is not built to unique specifications of the Government lessee/tenant.
- e. There is a private sector market for the asset.
- f. The present value of the minimum lease payments over the life of the lease does not exceed 90 percent of the fair market value of the asset at the beginning of the lease term.

4.10.2.2 If a lease does not meet all six criteria, it is to be treated as a capital lease for budget purposes.

4.10.2.3 A capital lease may require the full cost of the lease to be accounted for in NASA's appropriation for the first year of the term. However, an operating lease only requires the annual payment obligation to be scored each year.

4.10.2.4 OMB Circular A-11 provides additional guidelines to be used to distinguish operating leases from capital leases and lease-purchases and should be consulted by Centers when developing PPVs, including EULs.

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